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Selectmen Minutes 06-20-2001

Meeting Minutes
Wednesday, June 20, 2001
7:00 p.m.

Present: Mr. Lyons - Chair, Mrs. Mahon - Vice Chairman, Mr. Hurd
Also Present: Mr. Farrington, Mr. Maher, Ms. Cove

Opening of Special Town Meeting Warrant for October 1, 2001

Warrant remaining open until 5:00 p.m. June 25, 2001

Mrs. Mahon moved to open the warrant for the October 1, 2001 Special Town Meeting, said warrant to remain open until 5:00 p.m. on Monday, June 25, 2001.

(3-0) SO VOTED

Continuation of Dog Hearing 112 Fairmont Street – "Charlie"

Mr. Wilder and his attorney, Deborah Slater-Wise were present.

The Chairman explained that this is a continuation of a hearing from May 23, 2001. Mrs. Mahon asked all those about to testify, who were not sworn in at the previous meeting, to rise in order to be sworn in. Mrs. Mahon swore in the witnesses.

Don Westwater, 131 Thorndike Street testified that, "Charlie" had jumped the fence of his yard and ran after he and his son while they were out for a walk.

On another occasion, Mr. Westwater explained that "Charlie" bit their dog. The bite later became infected. Mr. Westwater contacted the Wilder's and explained that he offered to withdraw his request to pay for the veterinary bill in exchange for an assurance that the dog would be contained henceforth.

On another occasion Mr. Westwater was attacked while he was by himself. It was his impression that Ms. Laurie Wilder allowed the dog to threaten him in her presence. This incident occurred after Mr. Westwater had twice requested that the Wilders secure the dog and they had assured him they would.

Attorney Slater-Wise cross-examined the witness.

Kathy Kerry, 131 Thorndike Street, wife of Mr. Don Westwater, confirmed the testimony of her husband regarding the attack on her dog and the subsequent infection of the bite on her dog. She reported seeing the dog unleashed on a number of occasions, but not since the hearing in February. She reported that she fears for the safety of her children with "Charlie" in the neighborhood. She indicated that she feels deeply for the Wilder family but feels that people should come first. Attorney Slater-Wise cross-examined Ms. Kerry.

Lauren Holmes, 53 LaFayette Street reported that her dog Molly was attacked by Charlie (her husband testified at the previous hearing to this matter). Ms. Holmes stated she will not walk in the area because she does not feel safe. She reported receiving a letter from the Wilder's attorney indicating that the dog would only be walked at

certain times within a certain area of the neighborhood. Ms. Holmes reported that on four occasions this spring she saw Charlie being walked in violation of the conditions outlined in the letter she received from the attorney for the Wilders. Attorney Slater-Wise cross-examined Ms. Holmes.

Lisa Rameior, 94 Fairmont Street, reported that "Charlie" often defecated in her yard. She also reported that last summer, she was in her yard in the early evening and "Charlie" ran into her yard. The dog approached her, growling deeply and bearing his teeth, the dog went into a crouch and she called to her neighbor to call the police. Her neighbor came outside with a bat and chased the dog away.

Ms. Rameior also reported that a few weeks after Charlie had killed the neighborhood cat "buddy", she was in her driveway returning from work and Charlie ran at her from across the street, he lunged at her, she kicked him and ran into the house and called the police. Attorney Slater-Wise cross-examined Ms. Rameior.

Sal Catanzano, Dog Officer, 112 Mystic Street reported that he had come into contact with Charlie on two occasions. One incident is when he was off duty and Charlie had run into a neighbor's yard; the neighbor went and got Sal from his home and Sal chased the dog away. The second incident was in February, after the dog had killed the cat "buddy". After the cat was killed he chased the dog, at that time Mr. Wilder reported to Mr. Catanzano that he would be bringing the dog to his sister's home. He pointed to an incident report from when the cat was killed and reviewed the citations issued. He reported that there had been no incidents reported in the last 4 or 5 months. Attorney Slater-Wise cross-examined Mr. Catanzano.

Town Counsel indicated that there were no further witnesses to testify against the Wilder Dog.

Attorney Slater-Wise asked Mr. Al Wilder of 112 Fairmont Street to speak. Mr. Wilder apologized for the dog frightening neighborhood children and adults. He expressed his hope that some type of compromise could be met. Mr. Wilder read a letter relative to the mental health of his daughter. Town Counsel objected on the basis that the information was not relevant to the matter at hand. He further indicated that if the matter were to be brought up in court that he would request to have the information stricken from the record. Attorney Slater-Wise requested that the letter show in the record. Mr. Wilder indicated that the family is attending dog training. He indicated that the behaviorist working with the family opined that the dog is not beyond being trained; Mr. Wilder provided a copy of the letter from Mr. Wilder indicating same. Mr. Wilder assured the Board that the family would closely monitor the dog. Attorney Maher cross-examined Mr. Wilder.

Mr. Maher asked Mr. Wilder if Charlie is vicious. Mr. Wilder replied in the negative.

Attorney Slater-Wise was requested to give her summation. She submitted the following documents (photocopies) to the Board:

1. Letter of May 22, 2001 from Jay A. Livingston, M.A., of Livingston Services, 61 Cushing Street, Medford, MA.
2. Letter of May 22, 2001 from Marie M. Harburger, R.N. of 145 Lincoln Road, Lincoln, MA.
3. Commonwealth of Massachusetts, Trial Court findings: Jerry and Janice Noyes vs. Board of Selectmen for the Town of Athol.
4. Commonwealth of Massachusetts, Trial Court findings: Stephen and Janet Place vs. Board of Selectmen for the Town of Lakeville.

Attorney Slater-Wise argued that the relevant law at hand is the public nuisance statute. She argued that no one has been threatened by the dog in the last four or five months.

The Chairman asked that it be noted for the record that the Board has spent approximately 4½ hours on this matter. The Chairman closed the hearing at 9:35 p.m. He explained the importance of investing a great deal of time on this matters. The Chairman thanked Attorney Slater-Wise for the copies of the case law but indicated that they are only the findings and not the whole case and are therefore not as useful as knowing the full arguments for the plaintiff and defendants.

Mr. Hurd indicated that from the testimony received, the dog is definitely vicious. Mrs. Mahon recommended that the dog be banned from the confines of the Town.

The Chairman stated that the dog should be defined as a nuisance; he has attacked on four separate occasions and he is a threat to the general welfare.

Mrs. Mahon moved that as a result of hearing the testimony of the witnesses that the dog shall be deemed vicious and should be ordered from the Town. (3-0) SO VOTED

A true record. Attest:

Caryn E. Cove
Board Administrator